

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

JOSIP MARTINOVIC

Case No.

20-70807

Debtor.

Chapter 7

JOSIP MARTINOVIC

Plaintiff,

-against-

Adv. Proc. No.

20-08029

1. SOFI LENDING CORP. / SOFI ALTERNATIVE TRUST LORA
2. EDUCATIONAL MANAGEMENT CREDIT CORP. (EMC) / NELNET / DEPARTMENT OF EDUCATION
3. DISCOVER BANK

Defendant.

AMENDED COMPLAINTComplaint seeking a Determination that the Debt
Owed to the Defendant by Plaintiff is DischargeableJOSIP MARTINOVIC

Plaintiff, filing this complaint against
 Defendant, seeking determination that the debt owed by me to the Defendant is dischargeable,
 states as follows:

1. The Plaintiff has filed for Chapter 7 bankruptcy in this court and this court has jurisdiction to determine the dischargeability of debts owed by the Debtor;
2. JOSIP MARTINOVIC, the Plaintiff, resides at 24 MANDE RD, HUNTINGTON, NY 11743. The Defendant, SOFI, EMC, DISCOVER, resides at 2750 E COTTONWOOD PKWY, COTTONWOOD HEIGHTS, UT 84211 / 111 S WASHINGTON AVE, MINNEAPOLIS, MN 55401 / 2500 LAKE COOK ROAD, RIVERWOODS, IL 60015

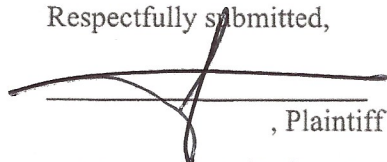
3. 63-DISCHARGEABILITY - 523 (a) (8)
ADDITIONAL SHEETS ENCLOSED

[put in the reasons why you believe there are grounds to ask the Court for relief: ie:
 Pursuant to Bankruptcy Code Section 523 - you must determine what section of the
 bankruptcy code applies to your case.]

4. The Plaintiff requests that STUDENT LOANS
 (describe the debt) be declared dischargeable pursuant to the Bankruptcy Code.

WHEREFORE, Plaintiff(s) respectfully request that this Court declare the
STUDENT LOANS (describe the
debt) dischargeable pursuant to the Bankruptcy Code.

Respectfully submitted,



, Plaintiff

Print name: JOSIP MARTINOVIC
Address: 24 MANDE RD, HUNTINGTON, NY 11743
Phone: (646) 567-6370

08/20/2020

I am unemployed and have experienced multiple consecutive job losses since graduating from school in 2008, with no fault on my own, but specifically due to ongoing corporate restructuring and prevalence of temp jobs.

Recently, I ran out of unemployment insurance benefits and depleted all of my savings. At the moment, I solely depend on help from friends.

I worked very hard, focusing on my career and education, and unfortunately didn't succeed. I'm 45 years old and have absolutely nothing - no assets, real estate, valuables, 401k, etc.

As a results of these issues, I developed a severe anxiety and depression, and I'm regularly seeing a therapist and taking antidepressant medications.

I applied for a few thousand jobs, but can no longer get a gainful, full-time employment due to a perceived job hopping, large resume gaps and too many companies in my employment history. I attended numerous workshops and got an expert advice about how to improve my resume, interviewing skills and job search strategies, but nothing seem to be helpful in this kind of situation.

Subsequently, I experienced an extreme trauma and can no longer successfully interview for or perform at a comparable job due to mental health issues that I was diagnosed with.

I went above and beyond to pay my financial obligations and never missed a single payment for anything in my life, from utilities to credit cards and student loans; however, I accumulated an excessive debt. In particular, for student loans, even though I was repaying them for years, I currently owe more than I borrowed 15 years ago due to an extended periods of unemployment and accrued interest during forbearance/deferment of loans in-between the jobs.

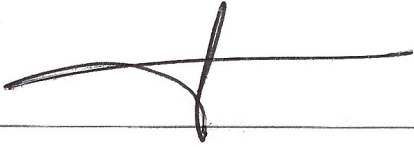
At the moment, I exhausted all possible forbearance/deferment options for private student loans and they are currently delinquent.

I strongly feel that any further requirement to pay off my loans will impose an undue hardship on my life and I'm asking this honorable court to allow me for a fresh start and to discharge me from student loans.

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS <div style="font-size: 1.2em; margin-top: 10px;">JOSIP MARTINDVIC</div>	DEFENDANTS <div style="font-size: 1.2em; margin-top: 10px;"> 1. SOFI LEND CORP / SOFI ALT. TRUST 2018A 2. EDCM / NELNET / DOE 3. DISCOVER BANK </div>			
ATTORNEYS (Firm Name, Address, and Telephone No.) <div style="font-size: 1.2em; margin-top: 10px;"> PRO SE 24 MANOR RD, HUNTINGTON, NY 11743 </div>	ATTORNEYS (If Known) <div style="font-size: 1.2em; margin-top: 10px;"> 1. GAIL ZAPFF 2. KENNETH BAUM 3. N/A </div>			
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) <div style="font-size: 1.2em; margin-top: 10px; text-align: center;">DISCHARGE OF STUDENT LOANS (SEE ENCLOSED FOR DETAILS)</div>				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law <input type="checkbox"/> Check if a jury trial is demanded in complaint	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 Demand \$			
Other Relief Sought				

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR JOSIP MARTINOVIC		BANKRUPTCY CASE NO. 20-76807
DISTRICT IN WHICH CASE IS PENDING EASTERN DISTRICT OF NEW YORK	DIVISION OFFICE LSLP	NAME OF JUDGE LOUIS A. SCARCELLA
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF JOSIP MARTINOVIC	DEFENDANT 1. SOFT LENDING CORP / SOFT AT 2. ECMC / NELSON / DOE 3. DISCOVER BANK	ADVERSARY PROCEEDING NO. 20-08029
DISTRICT IN WHICH ADVERSARY IS PENDING EASTERN DISTRICT OF NEW YORK	DIVISION OFFICE LSLP	NAME OF JUDGE LOUIS A. SCARCELLA
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 08/20/2020	PRINT NAME OF ATTORNEY (OR PLAINTIFF) JOSIP MARTINOVIC	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.